IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.741 OF 2006

Shri Pramod Shankar Hipparkar .. Petitioner.
Vs.
Anuradha Pramod Hipparkar & Anr. .. Respondents.

Mr.V.V.Savaji i/b Mr.P.B.Shah for the petitioner.
Mr.R.Y.Mirza A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 10TH AUGUST, 2006

P.C.:

. Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. By this petition, the petitioner has impugned the order dated 16.2.2006 by which the application at Exhibit-11 filed by the petitioner in M.A. No.5 of 2005 has been rejected. By that application, the petitioner had prayed for stay to the hearing of the respondent-wife's application under section 125 of the Code of Criminal Procedure (for short "the Code"). The stay was sought mainly on the ground that the wife has already received maintenance in the petition filed by the petitioner for divorce and in view thereof she cannot claim maintenance under section 125 of the Code. In my opinion, the stay on the ground mentioned

in the application as also argued before me cannot be and need not be granted since it is open for the petitioner to oppose her claim of maintenance under section 125 of the Code on merits. The petitioner can also invite the attention of the learned Judge deciding the application under section 125 to the order passed by the Civil Judge, Senior Division, Pandharpur granting interim alimony to the respondent-wife. In my opinion, no inteference in the impugned order under Article 227 of the Constitution is called for. The writ petition is, accordingly, dismissed. The learned Magistrate shall decide the application under section 125 of the Code on merits in accordance with law and uninfluenced by the observations made in this order.

(D.B.Bhosale, J.)